

REMARKS

Claims 14 and 61-70 has been amended. No claims have been added or cancelled. Therefore, claims 1-70 remain pending in the application. Reconsideration is respectfully requested in light of the following remarks.

Section 112, Second Paragraph, Rejection:

The Examiner rejected claims 14 and 15 under 35 U.S.C. § 112, second paragraph, as being indefinite. Claim 14 has been amended to overcome this rejection.

Section 102(e) Rejection:

The Examiner rejected claims 1-14, 17 and 19-70 under 35 U.S.C. § 102(e) as being anticipated by Borella et al. (U.S. Patent 6,269,099) (hereinafter "Borella"). Applicant respectfully traverses this rejection for at least the reasons below.

Regarding claim 31, Borella fails to disclose a first peer in the peer-to-peer network accessing a peer group name server in the peer-to-peer network, wherein the peer group name server comprises information about one or more entities in the peer-to-peer network, wherein the information comprises, for each of the one or more entities, a symbolic name and an associated entity identity of the entity. The Examiner does not provide a proper rejection of claim 31. Instead, the Examiner merely rejects claim 31 "for the same basis" as claim 1. However, claim 1 does not recite the same limitations as claim 31. Therefore, the Examiner has failed to even attempt to state a *prima facie* rejection of claim 31.

Borella teaches that a network device, such as Borella's edge router 16 may insert a special peer discovery marker in the header of an otherwise normal network message. Another network device, such as Borella's edge router 20 retrieves the marker from the network message before sending the network message on to its destination. The

information in Borella's peer discovery marker including address information identifying the network device that inserted the discovery marker in the network message. The receiving network device then opens a separate communication with the sending network device in order to send its own address information. Thus, the two network devices can communicate separately, such as to enable the two devices to "exchange and negotiate 'intelligent' edge router capabilities such as error correction, encryption, compression and other transmission parameters" (Borella, column 7, line 36-column 8, line 12 and column 10, lines 25-33). However, Borella does not teach anything regarding a peer group name server including information about entities on a peer-to-peer network, where the information includes a symbolic name for each of the entities, as recited in claim 31. Instead, Borella teaches storing only the network address of peer devices (Borella, FIG. 3B and column 6, lines 51-60).

Additionally, in further regard to claim 31, Borella fails to disclose the first peer sending a symbolic name of an entity to the peer group name server, the peer group name server locating a copy of the symbolic name in the information about the one or more entities to determine an entity identifier associated with the symbolic name, and the peer group name server sending the entity identifier associated with the symbolic name to the first peer. As noted above, the Examiner does not cite any portion of Borella regarding the specific limitations of claim 31. Borella's system only involves pairs of network devices, such as Borella's edge routers 16 and 20, discovering each other. Borella's system does not include a peer sending a symbolic name to a peer group name server. In fact, as noted above, Borella fails to teach the use of symbolic names in his peer discovery protocol at all. Borella does not mention anything regarding a peer group name server locating a copy of the symbolic name to determine an entity identifier associated with the symbolic name and sending the entity identifier associated with symbolic name to the first peer.

As noted above, the Examiner does not cite any portion of Borella (or any other cited art) that teaches anything regarding the specific limitations of claim 31. The

Examiner's reliance upon the same rejection for both claim 1 and claim 31 is clearly improper and does not provide a *prima facie* rejection of claim 31.

Applicant respectfully reminds the Examiner that anticipation requires the presence in a single prior art reference disclosure of each and every limitation of the claimed invention, arranged as in the claim. M.P.E.P 2131; *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). The identical invention must be shown in as complete detail as is contained in the claims. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). As discussed above, Borella fails to disclose a first peer in the peer-to-peer network accessing a peer group name server in the peer-to-peer network, wherein the peer group name server comprises information about one or more entities in the peer-to-peer network, wherein the information comprises, for each of the one or more entities, a symbolic name and an associated entity identity of the entity. Borella also fails to disclose the first peer sending a symbolic name of an entity to the peer group name server, the peer group name server locating a copy of the symbolic name in the information about the one or more entities to determine an entity identifier associated with the symbolic name, and the peer group name server sending the entity identifier associated with the symbolic name to the first peer. Therefore, Borella cannot be said to anticipate claim 31.

Thus, for at least the reasons above, the rejection of claim 31 is not supported by the cited art and removal thereof is respectfully requested. Similar remarks also apply to claims 58 and 70.

Regarding claim 1, Borella fails to disclose a peer group name server receiving information about a peer group, wherein the peer group comprises one or more peers as member peers of the peer group, wherein the one or more peers reside on one or more network nodes coupled to the network and wherein the information about the peer group stored on the peer group name server is accessible to entities on the network through the peer group name server to discover the peer group. The Examiner cites column 2, line 64

- column 3, line 4. **However, Borella does not teach anything regarding a peer group name server.** The Examiner refers to item 12 in FIG. 1 of Borella as a peer group name server. However, the Examiner's interpretation of Borella is incorrect. First of all, item 12 in Borella's FIG. 1 is a *network* and is clearly described as such by Borella (Borella, column 4, lines 48-53).

The Examiner also refers to Borella's network device being able to discover its peer by using peer discovery protocol, citing figures 8A-B and column 7, line 37 – column 8, line 12. Borella teaches a system and method for peer network device discovery but Borella fails to disclose that the information (i.e. the marker information) sent from one peer to another is accessible to entities on the network through the peer group name server to discover the peer group. In contrast, Borella's edge routers only send out information about themselves, but do not make information received via Borella's peer discovery protocol regarding another device available to other devices. For example, in order to anticipate Applicant's claims, Borella's edge router 20 would have to make the address information regarding edge router 16 accessible to other entities on the network, which does not occur in Borella's system. In fact, Borella fails to mention anything about a first peer network device providing discovery information about second peer network device available to a third peer network device. Thus, Borella fails to disclose a peer group name server receiving information about a peer group, wherein the information about the peer group stored on the peer group name server is accessible to entities on the network through the peer group name server to discover the peer group.

As noted above, anticipation requires the presence in a single prior art reference disclosure of each and every limitation of the claimed invention, arranged as in the claim. M.P.E.P 2131; *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). The identical invention must be shown in as complete detail as is contained in the claims. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). As discussed above, Borella fails to disclose wherein the information about the peer group stored on the peer group name server is accessible to

entities on the network through the peer group name server to discover the peer group. Therefore, Borella cannot be said to anticipate claim 1.

Thus, the rejection of claim 1 is not supported by the cited art and removal thereof is respectfully requested. Similar remarks apply to claims 11, 37, 44, 61 and 65.

In further regard to claims 11 and 44, Borella does not disclose discovering the peer group from the information about the peer group on the peer group name server. The Examiner does not cite any passage of Borella that describes discover a peer group from information about the peer group on the peer group name server. As noted above, Borella does not teach where information about a peer group stored on a peer group name server is accessible *to discover the peer group*. Additionally, Borella does not disclose *discovering a peer group* from the information *about the peer group on the peer group name server*. Instead, as noted above, Borella teaches a system in which individual pairs of peers discover each other (via headers inserted into network messages), but Borella does not teach discovering a peer group from the information about the peer group on the peer group name server. In order to anticipate Applicant's claims, a peer device in Borella's system would have to use the information stored on another peer device (the marker information received in a network message) to discover a peer group. However, as noted above, Borella's edge routers do not make the information they receive in the header markers of network messages accessible to other entities.

Regarding claim 3, Borella fails to disclose wherein the information about the peer group includes a peer group name of the peer group and a peer group identifier of the peer group. The Examiner cites item 48 of FIG. 3A and column 6, lines 41-44. However, the Examiner's cited passage does not mention anything about a peer group name or a peer group identifier. Borella teaches that a peer discover marker includes kind-field 48 that is "a unique number (e.g. 128)" (parenthesis in original). Borella does not teach that the unique number in kind-field 48 is a peer group identifier. Instead, Borella teaches that kind-field 48 is used to identify the added header fields as a peer discovery marker (Borella, column 8, lines 27-36). Thus, kind-field 48 is used as part of

the messaging protocol to identify Borella's inserted peer discovery marker and not as a peer group identifier, as suggested by the Examiner.

Moreover, the kind-field 48, referred to by the Examiner, is part of Borella's peer discovery marker that is inserted in network messages. Borella's kind-field 48 is not part of information about a peer group stored on a peer group name server.

The Examiner has not cited any portion of Borella that teaches the use of peer group name for any purposes whatsoever. Nor does Borella teach anything regarding information about a peer group stored on a peer group name server including a peer group name.

Thus, the rejection of claim 3 is not supported by the cited art and removal thereof is respectfully requested. Similar remarks also apply to claims 12, 39 and 45.

Regarding claim 5, Borella fails to disclose wherein the information about each of the one or more member peers of the peer group includes a peer name of the particular peer and a peer identifier of the particular peer. The Examiner does not cite any portion of Borella that teaches where information about a member peer includes a peer name of the peer. Instead, Borella teaches that each peer devices stores only the addresses for discovered peers in a peer discovery table (FIG. 3B and column 6, lines 51-60). Borella does not mention anything regarding information about each of one or more member peers stored on a peer group name server including a peer name of particular member peer. Thus, the rejection of claim 5 is not supported by the cited art and removal thereof is respectfully requested. Similar remarks also apply to claims 20, 41, and 49.

Regarding claim 8, Borella does not disclose the peer group name server receiving information about one or more other peer groups each comprising one or more member peers, wherein the information about the other peer groups stored on the peer group name server is accessible to the entities on the network through the peer group name server to discover one or more peer groups. As described above regarding the

rejection of claim 1, Borella teaches a system and method for peer network device discovery but Borella fails to disclose that the information (i.e. the marker information) sent from one peer to another is accessible to entities on the network through the peer group name server to discover the peer group. In contrast, Borella's edge routers only send out information about themselves, but do not make information received via Borella's peer discovery protocol regarding another device available to other devices. For example, in order to anticipate Applicant's claims, Borella's edge router 20 would have to make the address information regarding edge router 16 accessible to other entities on the network, which does not occur in Borella's system. In fact, Borella fails to mention anything about a first peer network device providing discovery information about second peer network device available to a third peer network device. Thus, Borella fails to disclose a peer group name server receiving information about one or more other peer groups each comprising one or more member peers, wherein the information about the other peer groups stored on the peer group name server is accessible to the entities on the network through the peer group name server to discover one or more peer groups.

Thus the rejection of claim 8 is not supported by the cited art and removal thereof is respectfully requested. Similar remarks also apply to claim 43.

Section 103(a) Rejections:

The Examiner rejected claims 15 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Borella in view of Teodosiu et al. (U.S. Publication 2002/0062375) (hereinafter "Teodosiu"). Applicant respectfully traverses this rejection for at least the reasons presented above regarding their respective independent claims.

Further regarding the rejection of claims 15 and 16, as outlined in Applicant's previous response, the rejection is improper because Teodosiu does not qualify as a prior art reference. More specifically, Teodosiu is a published U.S. patent application that was filed on Sep. 13, 2001, after Applicant's priority date of April 24,

2001. Teodosiu does claim the benefit of two provisional applications both filed Nov. 22, 2000. However, the Nov. 22, 2000 filing date can only be used as Teodosiu's 35 U.S.C. § 103(a) prior art date for the subject matter that is common to both the published application and one of Teodosiu's provisional applications. Since it is common practice for a later filed utility application to include more or different subject matter than its earlier provisional application, the Examiner cannot assume that the material in Teodosiu's published application relied upon by the Examiner was actually present in either of Teodosiu's provisional applications. **In fact, examination of Teodosiu's two provisional applications shows that they vary greatly from Teodosiu's published utility application.** The subject matter on which the Examiner is relying on to reject Applicant's claims does not appear to be entirely present in one of Teodosiu's provisional applications. Thus, the rejection is improper. *See, In re Wertheim*, 209 USPQ 554 (CCPA 1981).

Moreover, Teodosiu's published application is not entitled to the Nov. 22, 2000 date as a section 103(a) prior art date unless at least one claim of Teodosiu's published application is supported (under 35 U.S.C. § 112) in the provisional application. Under 35 U.S.C. 119(e)(1), a published utility application is not entitled to its provisional application's filing date as a prior art date unless at least one claim of the published utility application is supported (per 35 U.S.C. § 112) in the provisional application. Since both of Teodosiu's provisional applications are much shorter informal papers as compared to Teodosiu's utility application, it is not at all clear that either one of Teodosiu's provisional applications provide full 35 U.S.C. § 112 support for any of the claims of Teodosiu's published utility application. Thus, the rejection is further improper because Teodosiu's published application does not appear to have the necessary claim support in either provisional application to be entitled to the provisional application's filing date as its prior art date. *See also* M.P.E.P. § 2136.03(IV).

For the two reasons stated above, Applicant asserts that Teodosiu's published application does not qualify as prior art to the present application.

The Examiner rejected claim 18 under 35 U.S.C. § 103(a) as being unpatentable over Borella. Applicant respectfully traverses the rejection of claim 18 for at least the reasons given above regarding its independent claim. Applicant also traverses the Examiner's statement that the limitations of claim 18 would be obvious. Applicant notes that the Examiner's assertion in regard to claim 18 is completely unsupported by any evidence of record and is therefore improper. The Examiner has merely stated his own opinion as to what would be obvious without providing any prior art support. As the Court of Appeals for the Federal Circuit explained in *In re Lee*, 277 F.3d 1338, 1344-45, 61 USPQ2d 1430, 1434-35 (Fed. Cir. 2002), conclusory statements such as those provided by the Examiner do not fulfill the Examiner's obligation. "Deficiencies of the cited references cannot be remedied by the [Examiner's] general conclusions." *In re Zurko*, 258 F.3d 1379, 1385-86, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001).

Regarding the §102 and §103 rejections, Applicant also asserts that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the rejections have been shown to be unsupported for the independent claims, a further discussion of the dependent claims is not necessary at this time.

CONCLUSION

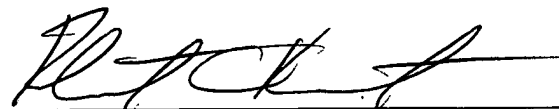
Applicant submits the application is in condition for allowance, and prompt notice to that effect is respectfully requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above-referenced application from becoming abandoned, Applicant hereby petitions for such an extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5181-90001/RCK.

Also enclosed herewith are the following items:

- ☒ Return Receipt Postcard
- ☐ Petition for Extension of Time
- ☐ Notice of Change of Address
- ☐ Other:

Respectfully submitted,



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